

Message Text

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ACTION L-03

INFO OCT-01 ARA-11 ADP-00 SCA-01 JUSE-00 RSR-01 RSC-01

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FM AMEMBASSY MEXICO

TO SECSTATE WASHDC 6565

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E. O. 11652 N/ A

TAGS: CPRS, SNAR, MX

SUBJECT: EXTRADITION: CARLOS TORRES AVINA

REF: MEXICO 3721

1. LIC. ABARCA OF FOREIGN SECRETARIAT DISCUSSED TORRES AVINA CASE WITH EMBOFF JUNE 19. TORRES AVINA' S ARREST HAS NOT YET BEEN REQUESTED AND ABARCA EXPRESSED HIS DESIRE THAT ALL DOCUMENTS BE IN PROPER FORM BEFORE HE FORWARDS CASE TO ATTORNEY GENERAL' S OFFICE.

2. IN KEEPING WITH THIS DESIRE, ABARCA NOTED THAT WARRANT OF ARREST WAS ISSUED ON SEPTEMBER 24, 1971. SUBSEQUENTLY, ON OCTOBER 26, 1971, THERE WAS " FINAL JUDGMENT OF BOND FOREFEITURE." ACCORDING TO MEXICAN LEGAL PRACTICE (WHICH IS PERTINENT TO JUDICIAL CONSIDERATION OF EXTRADITION REQUEST) THIS FINAL JUDGMENT WOULD HAVE EFFECT EITHER OF VACATING OR AT LEAST SUSPENDING PRIOR WARRANT WHICH LED TO POSTING OF THAT BOND. ACCORDINGLY, IT IS ESSENTIAL TO HAVE EITHER A NEW WARRANT (RELATIVE TO INDICT- METNS ON WHICH EXTRADITION REQUEST BASED) OR ELSE A CERTIFICATION THAT PREVIOUS WARRANT HAS BEEN REINSTITUTED AND CONTINUES VALID.

3. AS A SECOND POINT, ABARCA NOTED THAT UNDER MEXICAN LAW THREE INDICTMENTS AGAINST TORRES AVINA CONSTITUTE ELEMENTS OF A SINGLE CRIME. ALTHOUGH NOTHING CAN BE DONE TO BRING UNITED STATES PRACTICE INTO CONFORMANCE WITH MEXICAN LAW ON THIS POINT, HE THINKS THAT SUBJECT MIGHT HAVE GROUNDS FOR DEFENSE IN HAVING

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BEEN CHARGED THREE TIME FOR SAME CRIME.

4. PERTINENT TO CASE IS FACT THAT AGENT MARSHALL, ALTHOUGH EVIDENTLY A MATERIAL WITNESS, MADE NO DECLARATION. JBTHOUGH NOT ABSOLUTELY ESSENTIAL, AFFIDAVIT FROM THIS INDIVIDUAL WOULD GREATLY STRENGTHEN CASE AGAINST TORRES AVINA.

5. REFERRING TO EXPERT TESTIMONY OF CHEMIST, GEORGE LESTER, ABARCA NOTED THAT LESTER' S AFFIDAVIT INCLUDES NO REFERENCE TO APPENDED LABORATORY REPORT; LIKewise LAB REPORT ITSELF IS NOT CERTIFIED. IF AND AS POSSIBLE, THIS SHOULD BE CORRECTED.
MCBRIDE

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*** Current Classification *** LIMITED OFFICIAL USE

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